

MeadWestvaco Corporation *Papers Group*  
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Rumford, ME 04276



February 18, 2005

Andrew Fisk, Director  
Bureau of Land and Water Quality  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333-0017

Dear Mr. Fisk:

MeadWestvaco is submitting this letter and the enclosed documents as formal comments on the "Androscoggin River Total Maximum Daily Load" draft report dated December 2004. This document represents a lot of hard work by DEP staff and many stakeholders. This TMDL makes significant strides toward clarifying requirements and addressing water quality on the Androscoggin River. During this development of this TMDL, the Department has provided stakeholders opportunities for additional study and comments. MeadWestvaco appreciates the opportunity to provide comments on this draft and looks forward to the Department's continued willingness to gather better information and accept comments through the approval and implementation of this TMDL.

The Rumford Mill is the largest employer in the River Valley region with approximately 1100 employees. The mill's employees and their families, community leaders, local citizens, and regional legislators have all become engaged in the development of a reasonable TMDL that is protective of water quality, while ensuring the viability of the Rumford Mill and the municipalities located on the upper Androscoggin River. This support was apparent by the strong turnout at the December 2004 public meetings in Lewiston and Rumford. As a follow up to these meetings, regional legislators collaborated on comments for consideration in regards to the pending TMDL (see attached letter).

The Rumford Mill has a proven record of continuous improvement through pollution prevention. The mill has been recognized with Governor's Awards for Environmental Excellence, including an award for the mill's reduction in pollutant discharge to the Androscoggin River over the last 15 years. MeadWestvaco is advocating for a fair and flexible TMDL that will protect water quality and will result in licenses that are based in sound science and sound policy. These comments are intended to address policy, technical, and legal issues with the draft TMDL.

- The EPA approved TMDL must include a default waste load allocation – MeadWestvaco believes that the Federal regulations and guidance documents clearly require DEP to include specific waste load allocations for individual point sources. It is indicated on page 3 of the draft TMDL Summary that the allocation by impact methodology is the default allocation method. It is MeadWestvaco's position that DEP must clearly specify in all appropriate sections of the TMDL that the pollutant allocations presented are considered the default waste load allocations. Please refer to the attached legal comments regarding this issue. In addition to the legal aspects of this issue, it is just good policy as part of a public regulatory process, such as a TMDL, to establish clear requirements for all regulated sources. This also provides clear instructions to the DEP permit writer for subsequent development of MPDES licenses. It is also important that all discharge permits and water quality certifications be proposed concurrently so that the obligations of all regulated parties are clearly understood.

- Impact should be considered - The draft TMDL correctly recognizes that discharges to the Androscoggin River have varying impacts on Gulf Island Pond based on the assimilative capacity of the river segments below each discharge. It is important that DEP continue to consider impact when assessing pollutant allocations in the TMDL and subsequent development of license limits. A methodology based on impact prioritizes the pollutant reductions where they will yield the most environmental benefit.
- Provide time and flexibility to implement the TMDL – This TMDL will likely result in the lowest phosphorus license limits for any pulp and paper facility in the nation to eliminate a one-week algae bloom at Gulf Island Pond. A phased implementation of the TMDL is warranted since regulated facilities may be required to make significant investments to achieve these low limits (please refer to the August 2003 three mill phosphorus report). The DEP could construct the TMDL and licenses in a manner that provides a 10 year implementation. The phased implementation would specify pollutant reductions, but would also provide opportunity for better information through additional study and opportunities to evaluate the actual environmental results at periodic milestones. This key information could be used to adjust the TMDL during the implementation as needed.
- Do not penalize good performance - It is important that the draft TMDL, allocations, and licenses do not penalize good performance with low license limits and reward poor performance with higher license limits. Allocations and license limits should be based on impact rather than past performance. This approach should be consistent for all regulated parties.
- Consistency within the watershed – This draft TMDL only addresses the Androscoggin River segment upstream of Gulf Island dam. Comments raised at the Lewiston and Rumford public meetings identified river segments downstream of Lewiston/Auburn that also do not meet narrative standards for swimmability; however, these segments are not included in this TMDL. It is our understanding that even after the implementation of this TMDL, the river segment below Lewiston/Auburn will still not be swimmable. It seems that the DEP should be consistent in its approach to meeting these narrative standards throughout the Androscoggin River watershed by aligning priorities and providing a consistent timeframe for all regulated facilities.
- Current oxygen injection is compensating for mill discharges – The draft TMDL predicts that even if all of the mill discharges and the oxygen diffuser were eliminated, Gulf Island Pond would still not attain Class C water quality standards for dissolved oxygen at deeper depths. As stated in the draft TMDL, other factors affect the dissolved oxygen levels at the deeper depths, regardless of the presence of the mills. The model predictions and the dissolved oxygen observations justify the fact that current levels of oxygen injection are more than compensating for the mills' discharges. MeadWestvaco should not be responsible for the capital or operating cost of any additional oxygen injection proposed for Gulf Island Pond.

The current oxygen diffuser is managed by the Gulf Island Pond Oxygenation Partnership (GIPOP). The general partnership agreement specifies that Fraser, MeadWestvaco, and International Paper pay 86% of the operating and maintenance cost of the existing oxygen diffuser. The continuing operation of this diffuser is required by DEP order. It should be noted that the current Partnership is legally responsible only for the existing diffuser and oxygen injection rates as required by the order.

- TMDL Summary, Implementation Plan, Page 4 – As stated above, MeadWestvaco does not believe that any new oxygen injection should be the responsibility of the Rumford Mill, since the current diffuser is already more than compensating for the contribution of the point source discharges. Similarly, DEP has acknowledged that there would be no algae blooms if there were no impoundment.
- Livermore Falls Impoundment TSS TMDL – MeadWestvaco believes that DEP lacks the technical and legal justification to issue a TMDL for this segment of the river as part of the broader Androscoggin TMDL. There has not been adequate technical study of this issue nor adequate public participation in developing a TMDL for this river segment. As a result, this should be removed from the broader TMDL document. Please refer to the attached legal and technical comments.
- Gulf Island Pond TSS TMDL – MeadWestvaco believes that DEP lacks the technical justification to issue a sound TMDL for this segment of the river within the broader Androscoggin TMDL. As a result, this should be removed from the broader TMDL. Please refer to the attached technical comments.

- Weekly BOD limits – Although the use of weekly BOD is appropriate for use in modeling, MeadWestvaco does not believe that weekly BOD limits are typical for pulp and paper mill licenses in Maine, nor other pulp and paper mills known to MeadWestvaco. To address this issue, the TMDL could simply include language that would allow facilities to choose between the adoption of the proposed weekly limit or in lieu of the weekly limit, provide DEP with justification for monthly and daily license limits that are equivalently protective.

This letter is intended to identify MeadWestvaco's general comments on the draft TMDL. Please refer to the attached documents for additional detailed technical and legal comments. If you have any questions, please contact Scott Reed, Environmental Manager, at (207) 369-2203.

Sincerely,

Gary M. Curtis  
Vice President Maine Operations

cc:

Mr. Paul Mitnik, Maine DEP  
Ms. Jennie Bridge, EPA Region I  
Scott Reed, MeadWestvaco